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75	90 07/11/2003			
SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLLC 2100 PENNSYLVANIA AVENUE, N.W.			EXAMINER	
			SHERRER, CURTIS EDWARD	
WASHINGTON, DC 20037-3213			ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary Carris E. Sherrer		Application No.	Applicant(s)				
Curtis E Sherrer 1761 - The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Repty A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. If the period for reply specified shore is less than thirty (30 days, a reply whith ne statisticy minimum of thirty (20) days will be commended. If the period for reply specified shore is less than thirty (30) days, a reply whith ne statisticy minimum of thirty (20) days will be commended thematy. If the period for reply specified shore is less than thirty (30) days, a reply whith ne statisticy minimum of thirty (20) days will be commended thematy. If the period for reply specified shore is less than thirty (30) days, a reply whith ne statisticy minimum of thirty (20) days will be commended thematy. If the period for reply specified shore is less than thirty (30) days, a reply whith ne statisticy minimum of thirty (20) days will be commended thematy. If the period for reply specified shore is less than thirty (30) days, a reply whith ne statisticy minimum of thirty (20) days will be commended thematy. If the period for reply specified shore, the mainimum data data data data data data data dat		09/802,932					
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1) Responsive to communication(s) filled on 12 March 2001. 2a) This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1-8 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) is/are allowed. 6) Claim(s) is/are objected. 7) Claim(s) is/are objected to. 8) Claim(s) 1-8 are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filled on is/are: a) accepted or b) objected to by the Examiner. Application Papers 9) The proposed drawing correction filed on is: a) approved by disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action. 12) The oath or declaration is objected to by the Examiner. Priority under 35 U.S.C. §§ 119 and 120 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1 Certified copies of the priority documents have been received in Application No. 3 Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies on the provisional application has been received. 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 119(a) (to a provisional application). a) The translation of the foreign language provisional application has been received. 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.	 THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). 						
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Application/Control Number: 09/802,932

Art Unit: 1761

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-6, drawn to a vat, classified in class 99, subclass 276.
- II. Claim7-8, drawn to a method of fermenting, classified in class 426, subclass 15.

 The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus as claimed can be used to practice another and materially different process, e.g., for fermenting other substrates, such as beer.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and the search required for Group II is not required for Group I, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Page 3

Application/Control Number: 09/802,932

Art Unit: 1761

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Curtis E. Sherrer whose telephone number is 703-308-3847. The examiner can normally be reached on Tuesday-Friday, 8AM-6:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 703-308-3959. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3602 for regular communications and 703-305-3602 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

Curtis E. Sherrer Primary Examiner

July 9, 2003